



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 30-120 – Waivered Services Department of Medical Assistance Services March 29, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board of Medical Assistance Services (board) proposes to replace the existent home and community based care waiver for individuals with mental retardation with a revised waiver that has been approved by the federal Centers for Medicare and Medicaid (CMS).

Estimated Economic Impact

The home and community based care waiver details how and under what circumstances individuals with mental retardation receive care outside of an institutional setting. In order to receive federal funding for such care, the Commonwealth must receive federal approval for its waiver program. In order to receive approval, states are required to demonstrate that under their waiver program home and community based care is no more expensive than institutional care, provides adequate services, and is no less safe.

The Department of Medical Assistance Services' (DMAS) original home and community based care waiver for individuals with mental retardation first became effective in 1990. Since that time CMS (formerly HCFA) has granted successive renewal approvals. In 1999, HCFA conducted an audit review of Virginia's waiver and cited issues that the Commonwealth was required to address before further waiver approval would be granted. The primary required change was that any home being paid as a congregate residential provider must be licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS).

Federal Medicaid regulations require that any home being paid as a congregate residential provider provide training services for resident recipients. In their 1999 audit, HCFA found that some assisted living facilities, which are licensed by the Department of Social Services (DSS), were being paid as congregate residential providers, but were not providing training services for resident recipients. The DSS license for assisted living facilities does not require training services; and thus DSS was not checking for training services. Under the proposed regulations, any home being paid as a congregate residential provider must be licensed as a group home by DMHMRSAS. In order to obtain a group home license from DMHMRSAS, training services must be provided. This proposed change amounts to an effort to improve enforcement of the requirement that training services that are paid for are actually provided. It seems likely that enforcement will improve under the proposed licensing change.

In addition, as mandated by the 2000 General Assembly, the amount that a recipient may earn in employment without reductions in government payments for services is raised from the federally determined Supplemental Security Income (SSI) required for one person,¹ to 300% of SSI.² The General Assembly provided additional funds to pay for the anticipated difference. Allowing mentally retarded individuals to retain more of their earnings will encourage more recipients to work and to work more hours.

¹ The current SSI is \$545 per month (Source: DMAS).

² The actual earnings ceiling before reductions in government payments is actually somewhat more complicated; but this accurately provides the general idea.

The board proposes to create additional service categories. Some of the new categories, Prevocational Services and Companion Services, are a result of splitting existing categories.³ Reimbursement rates will not differ between the separated categories; thus, these new categories will not likely affect cost or use of the specified services. The board also proposes to create the Consumer Directed Respite Services, Consumer Directed Companion Services, and Consumer Directed Personal Assistance Services categories, in addition to the current and continuing agency directed versions of those categories. None of these services require individuals with significant training.⁴ For instance, an example of respite services would be a care-giving parent hiring a trusted individual to provide herself with an occasional break in watching their mentally retarded child. Recipients and their parents or guardians may in some instances be more likely and or more quickly find suitable people to hire for such positions.

Finally, the proposed new waived services regulations include a new category called Personal Emergency Response Systems Services. A personal emergency response system (PERS) is an electronic device that enables recipients who live alone or are alone for extended periods to get help in case of an emergency. It is thought that some relatively high-functioning recipients would benefit from such devices and perhaps save expenditures by substituting the PERS device for a more costly personal attendant who is only truly needed for emergencies. To the extent that PERS are used for individuals who are actually high-functioning enough to do without an attendant, this new category appears to provide a net benefit.

Businesses and Entities Affected

This proposed regulation amendment affects the 40 Community Service Board community mental health clinics in Virginia, providers of the various categories services, and the 5,386⁵ recipients of waived services.

Localities Particularly Affected

The proposed amendments potentially affect all Virginia localities.

³ Source: DMAS

⁴ Ibid

⁵ Ibid

Projected Impact on Employment

Some mentally retarded individuals may increase their hours of work due to the higher amount that a recipient may earn in employment without reductions in government payments for services.

Effects on the Use and Value of Private Property

The sale of personal emergency response systems may increase with the new approved expenditure of Medicaid funds on such devices.